

REMARKS/ARGUMENTS

Claims 1-21 are pending in the present application. Claims 1-21 have been rejected. Claims 1 and 21 have been amended.

Applicants respectfully respond to this Office Action.

A. Drawings

The Office Action objected to Figure 1 as needing a "Prior Art" legend added thereto. However, this drawing objection was withdrawn in the Examiner's Answer mailed December 22, 2006.

B. Claims 1-21 Rejected Under 35 U.S.C. § 103(a)

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,240,530 to Togawa (hereinafter, "Togawa"), and further in view of U.S. Patent No. 6,006,328 to Drake (hereinafter, "Drake"). This rejection is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. ___, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, "obviousness requires a suggestion of all limitations in a claim." In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection "should be made explicit." KSR, 2007 U.S. LEXIS 4745, at **37. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicants respectfully submit that the claims at issue are patentably distinct from Togawa in view of Drake. Neither Togawa nor Drake teach or suggest all of the limitations in the claims.

Figure 1 of Togawa is a flow diagram and s1 is a “virus detection and identification step.” Togawa, Figure 1. This does not teach or suggest “observer data comprising a plurality of observer program characteristics descriptive of a plurality of observer programs where the observer programs are programmed to observe activities on a computer system and to create log data, and wherein the log data includes screen shots, program usage and web sites visited.”

Column 5 of Togawa also does not teach or suggest this claim limitation. The portion of Togawa states the following:

According to a further aspect of the present invention, there is provided an information processing apparatus which includes a memory for storing programs and data for information processing and a processing section for executing the programs to perform various information processing, comprising a virus detection and identification section for detecting a computer virus which infects the information processing apparatus and identifying a type of the detected computer virus, a virus type information registration section for registering information regarding the type of the detected computer virus identified by the virus detection and identification section into a storage area which is access-disabled in an ordinary operation of the information processing apparatus . . .

Togawa, Col. 5, lines 7-19. This does not teach or suggest “observer data comprising a plurality of observer program characteristics descriptive of a plurality of observer programs where the observer programs are programmed to observe activities on a computer system and to create log data, and wherein the log data includes screen shots, program usage and web sites visited.”

Drake does not make up for the deficiencies of Togawa. Drake, in Col. 3, states the following:

This invention seeks to provide computer software having enhanced security features, to a process which substantially enhances the security of computer software (hereafter referred to as the improved process) and to a method by which to apply said improved process (hereafter referred to as the applicator).

The improved process consists of including computer code to automatically detect tampering of said computer software, and computer code to prevent the theft of ID-Data by replacing existing vulnerable (to rogue software eavesdropping or attack) software or operating system code with secure equivalents which utilise anti-spy techniques (as described later in this document).

Preferably, the improved process also consists of including computer code to prevent decompilation, reverse-engineering, and disassembly by the inclusion of obfuscating code inserts, and the use of executable encryption.

Preferably, the improved process also consists of including code to prevent execution-tracing and debugging by the use of code designed to detect and prevent these operations.

Drake, Col. 3, lines 31-52.

This portion of Drake does not teach or suggest “observer data comprising a plurality of observer program characteristics descriptive of a plurality of observer programs where the observer programs are programmed to observe activities on a computer system and to create log data, and wherein the log data includes screen shots, program usage and web sites visited.” It does mention “rogue software eavesdropping” (Col. 3, lines 41-42) and “anti-spy techniques” (Col. 3, lines 43), but the mere mention of generic terms does not teach or suggest these claim elements.

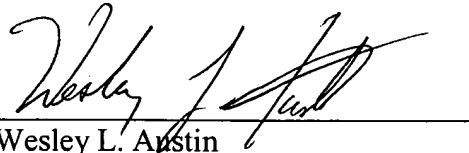
As shown, neither Togawa nor Drake teach or suggest all of the following claim limitations: “observer data comprising a plurality of observer program characteristics descriptive of a plurality of observer programs where the observer programs are programmed to observe activities on a computer system and to create log data, and wherein the log data includes screen shots, program usage and web sites visited.”

As set forth above, neither Togawa nor Drake teach or suggest all of the limitations in claim 1. Claims 2-20 depend directly or indirectly from claim 1. Thus, Appellants respectfully request that the rejection of claims 2-20 be withdrawn for at least the same reasons.

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Claim 21 includes similar limitations as claim 1 which were argued above. Thus, Appellants respectfully request that the rejection of claim 21 be withdrawn for at least the same reasons.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wesley L. Austin', is written over a horizontal line.

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